

FILED

DEC 11 2018

U.S. DISTRICT COURT-WVND
WHEELING, WV 26003

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

SPIRIT COMMERCIAL AUTO
RISK RETENTION GROUP,
SANDEEP BADWALSIGH and
INDY FREIGHT, INC.,

Plaintiffs,

v.

Civil Action No. 5:18CV31
(STAMP)

RANDALL RYAN SHREVE,
KASEE RENEE PORTER,
GERRY W. HARRIS, JR.,
MATTHEW JOSEPH PITZER,
AARON JACKSON,
KAREN N. BARNETT,
CYNTHIA G. DRANE,
DAVID WESTON,
FREDERICK DEAN CONNORS,
WILLIAM A. HEINBAUGH,
ANGELA R. AUBIHIL,
VICKY L. POSEY,
JESSICA LEIGH ALLEN,
ROBERT S. POWERS,
JODI SHACKELFORD,
JEFFREY DOUGLAS SHACKELFORD,
ANDREW J. ZEIGER,
SANDRA L. HEINBAUGH,
WILLIAM HEINBAUGH,
N.K., a minor,
M.A., a minor,
PAMELA LIPSCOMB,
DIANA SHACKELFORD,
BETHANI A. SHACKELFORD,
ELIZABETH BARNETT,
BROOKE N. DRANE,
TIERRA N. BRAUNER,
TREY M. BRAUNER,
TERENCE D. BRAUNER,
BOBBY JO WESTON,
E.W., a minor,
B.W., a minor and
BRUCE DAVIDSON,

Defendants.

ORDER REGARDING CONFIDENTIAL AWARDS
OF SPECIAL MASTER TO CLAIMANTS,
DIRECTING CLERK TO ISSUE PAYMENT OF
INTERPLEADER FUND OUT OF COURT REGISTRY,
AND DIRECTING PAYMENT OF FEES OF
SPECIAL MASTER AND GUARDIANS AD LITEM

Pursuant to the agreement of the parties, on October 24 and October 25, 2018, arbitration was conducted by the court-appointed Special Master, Stephen J. Dalesio, Esq., for the 25 claimants in the above-styled civil action. This Court has been advised that the Special Master has concluded his duties and obligations, and following his analysis of the claims asserted, has forwarded the individual, confidential and binding arbitration awards to counsel of record for each respective claimant, distributing the interpleader fund in its entirety. ECF No. 72.

All of the binding awards, by agreement, are to remain confidential. The separate awards made by the Special Master to each claimant in this matter have been presented to the Court, and will be delivered to the Financial Administrator of the United States District Court for the Northern District of West Virginia for distribution. The Special Master will provide the names and mailing addresses of each claimant to the Clerk. Further, the Clerk is DIRECTED to file all said confidential award information UNDER SEAL and to restrict access to COURT USERS ONLY, and not to provide the confidential award information to counsel or to the parties.

The Clerk shall then DISTRIBUTE the sum of \$975,000.00 and any applicable interest,¹ this being the full amount of remaining coverage of the subject insurance policy previously interpleaded by plaintiff and now deposited with the Clerk of this Court, in accordance with the Special Master's individual confidential awards, to each claimant without disclosure to the other parties, claimants, or their counsel. Additionally, the Financial Administrator will provide a Form W-9 (Request for Taxpayer Identification Number and Certification) for each claimant to complete and return. Counsel for each claimant is responsible for completing and returning the Form W-9 to the Financial Administrator before the award checks are issued.

Additionally, the named defendants in the Interpleader Complaint agree to execute the release prepared by plaintiffs and transmitted to defendants on or about October 23, 2018, discharging Spirit Commercial Auto Risk Retention Group, Sandeep Badwalsigh and Indy Freight, Inc., from any and all liability related to the accident and any and all responsibility with respect to any liens accrued by defendants as a result of the accident. The defendants that have pending Underinsured Motorist claims will make all reasonable efforts to obtain consent and waiver from their respective Underinsured Motorist Carriers and upon receiving such consent and waiver will execute the release. In the event consent

¹Any accrued interest shall be paid to the claimants proportionately.

and waiver cannot be obtained from the Underinsured Motorist Carrier, the release will be executed at the conclusion of the Underinsured Motorist claim and will be provided to counsel for plaintiffs.

Distribution will be made by the Clerk upon receipt of notice from plaintiffs' counsel that a release has been executed by a particular defendant.

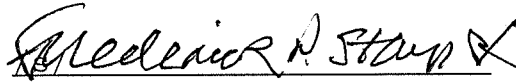
Further, this Court has been informed that the Special Master has provided the statement for his services to all counsel of record. By agreement of the parties, the payment of fees to the Special Master is to be made separate and apart from the interpleader fund previously deposited into the Court's Registry, with the plaintiffs paying 50% of the fee and the defendants paying 50% of the fee. ECF No. 62. With respect to the Guardians Ad Litem fees, the plaintiffs have agreed to pay these fees outside of the fund, as well. Id. The Guardians Ad Litem, Jeffery D. Kaiser, Esq. and Ryan P. Orth, Esq., have each forwarded to this Court their final statements of their total time spent and usual hourly rate. This Court finds the fees submitted to be fair and reasonable. These statements will be sent to plaintiffs' counsel and the plaintiffs are DIRECTED to pay the same, as agreed. Accordingly, the parties are DIRECTED to pay the Special Master and the Guardians Ad Litem in accordance with that agreement.

An order dismissing this civil action from this Court's docket with prejudice will be entered at a later date upon completion of the directives ordered above and payment to the claimants.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this order to counsel of record herein and to Evelyn Howell, Financial Administrator, United States District Court for the Northern District of West Virginia.

DATED: December 11, 2018


FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE